THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.16678 of 2002

ORAL ORDER:

This writ petition is filed questioning the award passed by the Labour Court-I, Hyderabad in I.D.No.137 of 1995 dated 30.9.1996 insofar as denying other benefits to the petitioner, while ordering reinstatement afresh.

Petitioner is the workman and second respondent is management. It appears, petitioner was appointed as Conductor in the Respondent Corporation with effect from 28.12.1978. On 27.2.1995, while he was conducting the Bus on route from Hyderabad to Upper Sileru, a check was exercised at Yeduguralapally and certain cash and ticket irregularities were detected by the checking officials. Therefore, petitioner was issued with a charge sheet, enumerating the following charges:

"I) For having failed to observe the rule 'issue and start' which is misconduct under Reg.(xxxii) of APSRTC Employees (Conduct) Reg. 1963.

II) For having failed to account the sale of ticket nos.392/979932 to 35 (E.3) of Rs.10/0 denomination and 085/656210 to 212 (E.3) of Rs.7/- denomination and 085/656210 to 212(E.3) of Rs.7/- in the SR No.A2/4754706 dated 25.2.1995 as having sold at stage No.27 which clearly speaks about your intention to reissue the same in the journey, which is misconduct under Reg.28 (xxv)(xxxi) of APSRTC Employees (Conduct) Reg. 1963.

III) For having punched the tickets bearing numbers 392/979933 to 935 (E.3) of Rs.10/- denomination and 085/656210 to 212(E.3) of Rs.7/- from "25" to "32" instead of "17" to "23" which clearly speaks about your intention to reissue the same in the journey which is misconduct under Reg.28(xxxi) of APSRTC Employees (Conduct) Reg.1963".

After conducting a detailed enquiry into the matter, petitioner was removed from service with effect from 21.8.1995. Aggrieved by the same, petitioner preferred appeal to the appellate authority and the same was

rejected. Ultimately, he raised a dispute under Section 2-A(2) of the Industrial Disputes Act, 1947 before the Labour Court-I, Hyderabad. It was his case that the enquiry was not properly conducted and absolutely there was no evidence to show that he was guilty of the charges. In fact, his spectacles were broken, therefore, there was some improper punching of tickets and the same was taken as a serious misconduct and was awarded with punishment of removal from service, which is shockingly disproportionate to that of the misconduct alleged against him. Therefore, the impugned order is liable to be set aside. The respondent-management filed a detailed counter denying the allegations made by the petitioner and stated that the enquiry was properly conducted and the punishment of removal from service is in fact proportionate to that of the misconduct, therefore, no interference is called. Though no oral evidence was let in by both the parties, on behalf of respondent-management, Exs.M1 to M18 were marked. After a detailed consideration of the entire material placed before it, the Labour Court came to the conclusion that for the reason fraud if at all could be played successfully, the respondent-Corporation would have been put to loss of Rs.51/- and further loss of some more amount as they would have been reissued, therefore, taking a lenient view, the Labour Court held that appointing the petitioner afresh as Conductor is just and proper in the facts and circumstances of the case and ordered accordingly.

The learned counsel for petitioner submits that since the charges levelled against the petitioner were not proved; denying his entire service is bad in law.

The learned counsel for respondent-management supported the award passed by the Labour Court and submitted that the Labour Court has taken a lenient view of the matter and ordered reinstatement afresh. Therefore, no interference is called for by this court under Article 226 of the Constitution of India.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned award and other material made available on record.

A bare look at the charges framed against the petitioner would indicate that though the petitioner had issued tickets, yet it was with wrong punching and the charge against the petitioner was that he

intended to sell those tickets in the next journey, after collecting them from the concerned passengers, as and when they get down and that is exactly the findings of the Enquiry Officer, which were also confirmed by the Labour Court. Once that view had been taken by the Enquiry Officer as well as by the Labour Court, may be two views are possible on the facts, but under Article 226 of the Constitution of India, this Court would not interfere with such findings of the authorities below while evaluating evidence.

In the peculiar facts and circumstances of the case and in view of the fact that the petitioner has rendered 17 long years of service and was never removed from service earlier, I am of the opinion that the Labour Court ought not to have denied entire period from the date of appointment till the date of reinstatement for all purposes. Therefore, to meet the ends of justice, the award passed by the Labour Court is modified to the following effect:

In the result, the respondent-management is directed to reinstate the petitioner into service as Conductor. However, the service rendered by workman from 28.12.1978 to 18.2.1997 be treated as continuous service only for the purpose of pensionary benefits and he is not entitled for any other benefits, such as, attendant benefits, promotion, seniority in the category of Conductor for the said period.

The writ petition is accordingly disposed of. No order as to costs.

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C.V.RAMULU,
J

Date: 3.12.2007

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THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.16678 of 2002

3.12.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.16678 of 2002

Date: 3rd December, 2007

Between:

T.Lingaiah

.. Petitioner

And

Labour Court-I, rep. by its Presiding Officer,
II Floor, Chandra Vihar Building,
Nampally, Hyderabad & another.

.. Respondents